

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LLOYD WHITE,

Plaintiff,

vs.

STERLING FOODS,

Defendant.

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SA-19-CV-00530-ESC

ORDER

Before the Court in the above-styled cause of action is Plaintiff's Motion for Reconsideration [#84]. Plaintiff, through his newly appointed attorney, asks the Court to reconsider certain discovery issues raised by Plaintiff while he was proceeding *pro se*. Specifically, Plaintiff seeks the production of certain video footage from his former employer, Defendant Sterling Foods. Plaintiff seeks video recordings of Defendant's premises from the day of his on-the-job injury (June 6, 2018), as well as recordings from October 18 and 19, 2018.

The Court held a hearing on the motion on this day, at which counsel for all parties appeared telephonically. The parties informed the Court at the hearing that formal written discovery has now been exchanged. The deadline to respond to that discovery has not yet expired.

With regard to video footage responsive to Plaintiff's requests, Defendant represented to the Court on the record that it will produce the responsive videos in its possession but that some of the requested videos no longer exist. Defendant stated that the videos that were not preserved were written over before Plaintiff requested them in accordance with Defendant's retention and overwriting practices and policies. As the Court noted at the hearing, Plaintiff is, of course,

entitled to conduct discovery on Defendant's policies and whether the videos at issue were handled in accordance with those policies. To expedite the process of confirming which footage exists and the nature of Defendant's retention and overwriting policies, the Court will order Defendant to provide Plaintiff with a sworn declaration as to its retention policies, which videos are available and have been retained, and which videos have been destroyed or overwritten. After Plaintiff receives a copy of the declaration, Plaintiff may choose to serve additional discovery on those topics.

Given the foregoing, the Court will deny the motion to compel in light of these representations and the further discovery Plaintiff may pursue related to this issue.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration [#84] is **DENIED**.

IT IS FURTHER ORDERED that Defendant produce a sworn declaration in accordance with this Order **within 21 days** of the date of this Order.

SIGNED this 14th day of August, 2020.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE